

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 1999-515-C - ORDER NO. 2000-0380

APRIL 26, 2000

IN RE: Application of Flatel, Inc. DBA Florida) ORDER
Telephone Company for a Certificate of Public) GRANTING
Convenience and Necessity to Provide Local) CERTIFICATE
Exchange Telecommunications Services within)
the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Flatel, Inc. DBA Florida Telephone Company ("Flatel" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange telecommunications services throughout the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed Flatel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Flatel complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was commenced on April 18, 2000, at 2:30 p.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Abby Matari appeared on behalf of Flatel. F. David Butler, General Counsel, represented the Commission Staff.

Abby Matari, Executive Vice President of Flatel, appeared and testified in support of the Application. Flatel is a Florida corporation and has been granted a Certificate of Authorization to transact business in the State of South Carolina by the South Carolina Secretary of State. Upon certification from this Commission, Flatel intends to offer local exchange services as a pure reseller, i.e. non-facilities based reseller. According to Mr. Matari, Flatel is an alternative telephone company primarily furnishing prepaid local dial tone service to individuals and businesses.

Mr. Matari explained that customers will have access to customer service representatives through a toll-free (1-800) number. Flatel will provide its customer service functions through an operations center located in West Palm Beach, Florida, which is where Flatel's principal place of business is located. Flatel will maintain a presence in South Carolina through a network of vendors who receive and collect service orders and payment transactions.

Mr. Matari offered that Flatel possesses the necessary financial qualifications to provide the services for which it seeks authority. Flatel provided, with its application, financial information to demonstrate its financial resources.

Regarding the Company's technical ability to offer services in South Carolina, Flatel, as a pure reseller of telecommunications services, will depend to some extent on the technical abilities of the ILEC. Flatel will purchase local exchange service from the ILEC, and accordingly, the quality of the local exchange service provided by Flatel will be at least equal to that provided by the ILEC. Further, Mr. Matari offered that Flatel is providing services in others states and offered the successful provision of services as evidence of Flatel's technical abilities.

Mr. Matari also testified about the management resources of Flatel. The record shows that the management team of Flatel consists of individuals with experience in telecommunications, sales, marketing, and human resources.

Mr. Matari stated that Flatel has a regional resale agreement with BellSouth Telecommunications, Inc. Mr. Matari affirmed that Flatel will provide services that meet the service standards of the Commission, that Flatel will participate in the support of universally available telephone service at affordable rates as required by the Commission, and that the services provided by Flatel will neither adversely impact the availability of universally affordable local exchange service nor adversely impact the public interest. According to Mr. Matari approval of the authority for Flatel will provide consumers in South Carolina will additional choices of local service and will increase incentives for all competitors to offer better services and packages of services. Mr. Matari also testified that Flatel will operate in compliance with the Commission's Rules and Regulations, orders and statutes.

Flatel offered into evidence a Stipulation with the SCTC in which Flatel stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until Flatel provided written notice of its intent prior to the date of the intended service. Flatel also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Flatel agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The Stipulation is attached hereto as Exhibit 1.

During the course of the hearing, some concern arose among the Commissioners with regard to the Company's "Basic" Plan for service. The only difference between the Company's "Basic" Plan priced at \$49.95 and its "Economy" Plan, priced at \$39.95 was the addition of "Call Waiting" to the "Basic" Plan. Although there is a \$10.00 difference between these plans, "Call Waiting" was

also available as a separate “menu” item for \$6.25. Thus, the Consumer lost \$3.75 by subscribing to the “Basic” Plan. Also at the time of the hearing, witness Matari did not possess the requisite Certificate from the Secretary of State, nor did he possess updated financials, an interconnection agreement, or an agreement with a direct marketer in South Carolina. The problem with the “Basic” Plan has now been cured, with the addition of “Call Return,” a \$6.00 value to the Plan. The consumer now gets a \$12.25 value for an additional \$10.00 over the “Economy” Plan. Flatel has also furnished proper Certificate from the Secretary of State, a partial interconnection agreement, and a letter of intent from a marketer who wants to market the Company’s services. No updated financials have been provided.

FINDINGS OF FACT

1. Flatel is organized as a corporation under the laws of Florida and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. Flatel wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that Flatel possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1998).
4. The Commission finds that Flatel’s “provision of service will not adversely impact the availability of affordable local exchange service.” S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).
5. The Commission finds that Flatel will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1998).
6. The Commission finds that Flatel will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1998).

7. The Commission finds that the provision of local exchange service by Flatel “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Flatel to provide competitive intrastate resold and facilities-based local exchange services only to customers located in non-rural areas of South Carolina, however, subject to a three-month probationary period from the time that the Company begins offering its services in South Carolina, due to the various difficulties that occurred at the hearing as described above. We believe that Staff shall monitor the Company during the three-month period, and report any problems that may arise to this Commission. The Company may also be subject to an additional hearing after notice. At the end of the three-month period, we will assess the Company’s performance. Accordingly, the Company will report to this Commission the date that it begins offering services in South Carolina, for purposes of beginning the probationary period. Also, as a condition of its probation, the Company will furnish updated financials within thirty (30) days of its receipt of this Order. If this Commission believes, after the probationary period, that this Company’s performance is detrimental to the public interest, it may revoke this Certificate, after notice and hearing.

The terms of the Stipulation between Flatel and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. In accordance with the Stipulation, Flatel may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until Flatel provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights

afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from Flatel that it intends to serve a customer located in a rural incumbent LEC's service area, and the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by Flatel pursuant to this Order without prior and further Commission approval.

Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation.

2. Flatel shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

3. Flatel shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. Flatel shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. Flatel shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Flatel shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings.

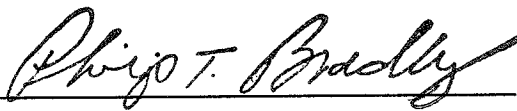
6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Flatel to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Flatel shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

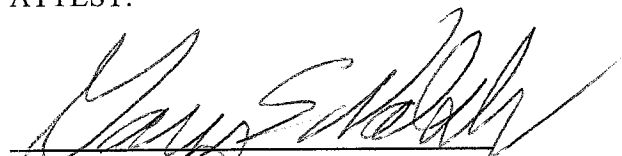
Flatel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

April 26, 2000

ATTACHMENT A

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION

103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**

FILED
2003-16-00

ACCEPTED
Legal 2003-15-01

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-515-C

RECEIVED
MAR 15 2000

Re: Application of Flatel, Inc. d/b/a Florida)
Telephone Company for a Certificate of Public)
Convenience and Necessity to Provide Local)
Exchange Telecommunications Services in the)
State of South Carolina)

S. C. PUBLIC SERVICE COMMISSION
RECEIVED
MAR 16 2000
STIPULATION
RECEIVED
UTILITIES DEPARTMENT

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Flatel, Inc. d/b/a Florida Telephone Company ("Flatel, Inc.") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Flatel, Inc.'s Application. SCTC and Flatel, Inc. stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Flatel, Inc., provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Flatel, Inc. stipulates and agrees that any Certificate which may be granted will authorize Flatel, Inc. to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Flatel, Inc. stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Flatel, Inc. stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until Flatel, Inc. provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Flatel, Inc. acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Flatel, Inc. stipulates and agrees that, if Flatel, Inc. gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Flatel, Inc. will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Flatel, Inc. acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Flatel, Inc., and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Flatel, Inc. agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

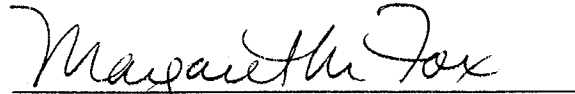
9. Flatel, Inc. hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 9th day of MARCH, 2000.

Flatel, Inc. d/b/a Florida Telephone Company:

A handwritten signature in black ink, appearing to read "M. John Bowen, Jr.", written over a horizontal line.

South Carolina Telephone Coalition:

A handwritten signature in black ink, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.

Margaret M. Fox

McNAIR LAW FIRM, P.A.

Post Office Box 11390

(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

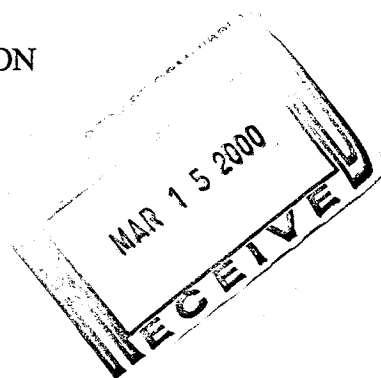
ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-515-C

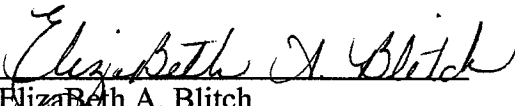


Re: Application of Flatel, Inc. d/b/a Florida)
Telephone Company for a Certificate of Public)
Convenience and Necessity to Provide Local)
Exchange Telecommunications Services in the)
State of South Carolina)
_____)

**CERTIFICATE OF
SERVICE**

I, ElizaBeth A. Blich, do hereby certify that I have this date served one (1) copy of the foregoing Stipulation upon the following party of record by causing said copy to be deposited with the United States Mail, first class postage prepaid to:

Mr. Abby Matari
Florida Telephone Company
2128 Okeechobee Blvd.
West Palm Beach, Florida 33409.


ElizaBeth A. Blich
McNAIR LAW FIRM, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

March 15, 2000

Columbia, South Carolina